

**Legal Actions Involving Mendocino Railway, Georgia-Pacific, City of Fort Bragg,
California Coastal Commission**

Current Status of Eminent Domain Lawsuits

April 20, 2023

❖ **Mendocino Railway(R) v. Lorena Ruth Shea, filed November 18, 2020**

- MR filed an eminent domain lawsuit to take the property at 476 Alger St., Fort Bragg (1+ acre) in Mendocino County Superior Court
- MR claimed it had the power of eminent domain as a railroad under state and federal law
- MR claimed it needed the property for railroad purposes
- Lorena Shea failed to appear and failed to file any defense to the taking
- Her default was entered in the court records
- Judgment of eminent domain taking by MR was entered June 7, 2021
- Condemnation amount paid by MR: \$155,000

CURRENT LEGAL STATUS: CASE CLOSED

❖ **Mendocino Railway v. John Meyer, filed December 22, 2020**

- MR filed an eminent domain suit to take John Meyer's 20 acres 1+ miles west of Willits, in Mendocino County Superior Court
- MR claimed to have the power of eminent domain as a railroad and claimed it needed the Meyer property for railroad purposes
- John Meyer answered claiming MR did not have eminent domain power
- Trial was held in Mendocino County Superior Court in January ,2023
- The case was submitted to the court for decision on or about February 8, 2023
- On April 19, 2023, the Mendocino County Superior Court issued its written decision ruling in favor of John Meyer and against Mendocino Railway. The court's decision states in part:
- "The court concludes that MR has failed to meet its burden of establishing that its attempt to acquire Meyer's property through eminent domain is supported by constitutional and statutory powers. The court finds in favor of Meyer."

CURRENT LEGAL STATUS: CASE WILL STAY OPEN UNTIL POST-TRIAL MOTIONS ARE CONCLUDED AND A FINAL JUDGMENT IS ENTERED IN FAVOR OF JOHN MEYERS. IF AN APPEAL IS FILED, JUDGMENT IS NOT FINAL UNTIL THE APPEAL IS RULED UPON BY THE APPEALS COURT

❖ **Mendocino Railway v. Georgia-Pacific et.al. filed August 11, 2021**

- MR filed an eminent domain suit to take 209 acres of the GP mill site and 70 acres along Pudding Creek in Fort Bragg
- MR claimed the power of eminent domain as a public utility railroad to take GP's property
- MR claimed it needed the property for railroad purposes
- GP withdrew all defenses to the lawsuit
- MR and GP agreed MR could take the property by eminent domain for \$1,230,000.
- MR agreed to pay for cleanup of toxic contamination on the GP property
- MR agreed to indemnify GP against any future cost or expense for mill site toxic cleanup.
- A stipulated (agreed) judgment of eminent domain awarding the property to MR was entered November 17, 2021 in the Mendocino County Official Records.

CURRENT LEGAL STATUS: CASE CLOSED

❖ **City of Fort Bragg v. Mendocino Railway, filed October 28, 2021**

- City of Fort Bragg (CFB) sued MR in Mendocino County Superior Court seeking a court declaration and injunction that MR is not a public utility and must comply with city regulations and ordinances
- CFB claims Mendocino Railway only operates excursions out and back, is not a common carrier, and does not provide transportation, i.e., the moving of goods or passengers from one location to another for money
- MR filed a demurrer and motion to strike the city's complaint on the ground the city had not pleaded a lawful case against MR and the case should be dismissed
- The demurrer and motion to strike the complaint were denied by the Ten Mile Superior Court in Fort Bragg on April 28, 2022
- MR then sought an emergency writ from the First District Court of Appeal in San Francisco seeking to overturn the Superior Court ruling. The Court of Appeal denied the writ and said the case did not warrant extraordinary writ review. MR then sought relief from the Supreme Court of California which upheld the Mendocino County Superior Court.
- MR filed an answer to the complaint on June 24, 2022 claiming it is exempt from various city regulations and land use laws as a public utility railroad
- On September 8, 2022, the California Coastal Commission (CC) filed a motion to intervene on the ground MR was violating the law by doing construction work without permits from local authorities and without a Coastal Development permit.

- On October 20, 2022, the Coastal Commission was granted permission to intervene and filed its complaint in intervention siding with the City of Fort Bragg

CURRENT LEGAL STATUS: TRIAL PENDING IN 2023

❖ **Federal Court actions:**

- **MR seeks to remove case to federal court, notice of removal filed October 20, 2022**
- City of Fort Bragg and California Coast Commission file motion November 21, 2022 in federal court in Eureka to remand case to Mendocino County Superior Court

- **Mendocino Railway vs. California Coastal Commission and the City of Fort Bragg lawsuit filed August 9, 2022 in Federal District Court for Northern California located in Eureka**
- MR claims federal courts, not California courts, have jurisdiction over MR claims to exemption as a public utility common carrier railroad under federal law
- CFB and CCC claim California state courts have primary and concurrent jurisdiction with federal courts and the case should be remanded (left) in Mendocino County Superior Court for determination of MR claims of exemption

CURRENT LEGAL STATUS: Waiting for determination by U.S. District federal court whether the case should be remanded to Mendocino County Superior Court or removed to Federal District Court for Northern California.